

Message

From: Kelley, Jeff [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E154FA5A5F744C70AA3DA58E3F87AABE-JKELLEY]
Sent: 1/23/2018 8:08:14 PM
To: Dee, Rhiannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0a0754b3ef5d410dae9c7539a8ae1b45-RDee]
Subject: RE: FYI - Menominee lawsuit over Back Forty Mine

Madison.com

http://host.madison.com/news/local/govt-and-politics/wisconsin-tribe-sues-federal-government-over-aquila-mine-in-michigan/article_13402fe2-fdda-5d1a-8c9a-aa7a64125542.html

Wisconsin tribe sues federal government over Aquila mine in Michigan's UP

By Steven Verburg, 1/23/18

The Menominee Indian Tribe of Wisconsin on Monday sued two federal agencies over their handling of a massive mine proposed on land just over the state line in Michigan's Upper Peninsula.

The tribe says the federal government has deprived it of treaty rights that are supposed to protect its cultural and historical sites and that the case may prove to have national significance.

The federal government has delegated to the state of Michigan extra authority for protecting wetlands and waterways like those on the mine site, which is 150 feet from the Menominee River.

The Keshena-based tribe said the Environmental Protection Agency and the Army Corps of Engineers should take control. That would give the tribe a much greater role in setting terms for how the river, adjacent wetlands and tribal burial grounds would be protected.

Toronto-based Aquila Resources wants to extract gold, zinc and other metals from an open pit mine. The elected boards and councils of at least six counties and four municipalities oppose the Aquila's Back Forty project.

In November, the tribe filed notice that it planned to sue, but the EPA declined to discuss the dispute, citing agency administrator Scott Pruitt's directive to avoid settling environmental lawsuits, said the tribe's attorney, Janette Brimmer. Later the EPA hinted that some very limited talks could occur, but that never happened, Brimmer said. The Army Corps sent a short letter saying authority would remain with Michigan, she said.

The two agencies didn't respond to requests for comment. Michigan has offered to involve the tribe in permitting, but only under federal law would the Menominee have a formal, enforceable channel to influence decisions.

Tribal chairman Gary Besaw has said Pruitt's desire to give more authority to states could lead to more disputes like this one.

Brimmer said the wetlands along the Menominee River should be regulated by the federal government because the river is a commercially navigable interstate waterway.

Opponents say a mine could drain acid into the river, a fishing destination that empties into Lake Michigan's Green Bay. Dozens of ancient effigy mounds, ceremonial fire rings and raised community gardens have been mapped on or around the mine site. The mine would unearth tons of sulfide rock, which reacts with air and water to create acid.

The Army Corps is involved in permitting disturbances of wetlands and waterways, while the EPA administers water and air quality.

Jeff Kelley

Director, Office of External Communications

U.S. EPA Region 5

ph: 312-353-1159

From: Dee, Rhiannon
Sent: Tuesday, January 23, 2018 2:04 PM
To: Kelley, Jeff <kelley.jeff@epa.gov>
Subject: RE: FYI - Menominee lawsuit over Back Forty Mine

Great. Thanks.

From: Kelley, Jeff
Sent: Tuesday, January 23, 2018 2:03 PM
To: Dee, Rhiannon <dee.Rhiannon@epa.gov>
Subject: FW: FYI - Menominee lawsuit over Back Forty Mine

I think this might be a good one for the weekly report ... maybe Rett is a good source of more information?

Jeff Kelley

Director, Office of External Communications

U.S. EPA Region 5

ph: 312-353-1159

From: Swenson, Peter
Sent: Monday, January 22, 2018 2:00 PM
To: Fortin, Denise <Fortin.Denise@epa.gov>; Deamer, Eileen <deamer.eileen@epa.gov>; Beckmann, Ronna Erin <beckmann.ronna@epa.gov>; Kelley, Jeff <kelley.jeff@epa.gov>; Lippert, Allison <lippert.allison@epa.gov>; Greenwater, Anthony <greenwater.anthony@epa.gov>; Rowan, Anne <rowan.anne@epa.gov>
Subject: RE: FYI - Menominee lawsuit over Back Forty Mine

I think Chris Korleski or Rett Nelson will let them know.

From: Fortin, Denise
Sent: Monday, January 22, 2018 1:59 PM
To: Swenson, Peter <swenson.peter@epa.gov>; Deamer, Eileen <deamer.eileen@epa.gov>; Beckmann, Ronna Erin <beckmann.ronna@epa.gov>; Kelley, Jeff <kelley.jeff@epa.gov>; Lippert, Allison <lippert.allison@epa.gov>; Greenwater, Anthony <greenwater.anthony@epa.gov>; Rowan, Anne <rowan.anne@epa.gov>
Subject: RE: FYI - Menominee lawsuit over Back Forty Mine

Thanks for the heads up, Peter. Is Water or ORC letting Cathy and Ed know?

Denise Fortin
Congressional/Intergovernmental Liaison
U.S. Environmental Protection Agency
312-886-9859

From: Swenson, Peter

Sent: Monday, January 22, 2018 1:45 PM

To: Deamer, Eileen <deamer.eileen@epa.gov>; Fortin, Denise <Fortin.Denise@epa.gov>; Beckmann, Ronna Erin <beckmann.ronna@epa.gov>; Kelley, Jeff <kelley.jeff@epa.gov>; Lippert, Allison <lippert.allison@epa.gov>; Greenwater, Anthony <greenwater.anthony@epa.gov>

Subject: FYI - Menominee lawsuit over Back Forty Mine

FYI - We just learned EPA and the Corps have been sued by the Menominee Tribe regarding the Back Forty Mine.

If you want a copy of the complaint, please let me know.

Peter Swenson (WW-16J)

Chief, Watersheds and Wetlands Branch

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